

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

NOEL A. SALDANA AND JESSICA  
SALDANA, husband and wife and their  
marital community,

Plaintiffs,

v.

THE CITY OF LAKEWOOD, a  
municipal corporation; and JAMES  
SYLER, in his official and individual  
capacity and JANE DOE SYLER and  
their marital community,

Defendants.

CASE NO. 11-CV-06066-RBL

ORDER ON DEFENDANT CITY OF  
LAKEWOOD'S MOTION FOR  
JUDGMENT ON THE PLEADINGS

THIS MATTER is before the Court on Defendant City of Lakewood's Motion for Judgment on the Pleadings [Dkt. #8]. In accordance with this Court's July 2, 2012 Order, the City's Motion is GRANTED IN PART and DENIED IN PART.

**I. DISCUSSION**

Plaintiffs' Amended Complaint for Damages [Dkt. #14] sufficiently cures the deficiencies present in their original § 1983 Civil Rights Claims against the City. In light of the amended allegations about the City's problems with its K-9 policies and practices, the *Monell* claims are sufficiently pled. The City's Motion for Judgment on the § 1983 claims is DENIED.

1 The City's Motion for Judgment on Plaintiffs' state law tort claims against the City,  
2 however, is GRANTED. The Amended Complaint fails to overcome the deficiencies raised in  
3 the original order. That is, because the parties agree that Officer Syler was acting within the  
4 scope of his employment, the negligence claims against the City are redundant, and the claims  
5 shall be DISMISSED with prejudice.

6 Plaintiffs' strict liability claim against Officer Syler was dismissed in the July 2, 2012  
7 Order.

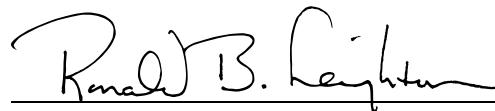
## 8 II. CONCLUSION

9 Defendant City of Lakewood's Motion for Judgment on the Pleadings [Dkt. #8] is  
10 GRANTED IN PART and DENIED IN PART.

11 The following claims remain against the City of Lakewood: § 1983 Civil Rights Claims;  
12 strict liability pursuant to RCW § 16.08.040; and vicarious liability for Officer Syler's conduct.  
13 The following claims remain against Officer Syler: § 1983 Civil Rights Claims and state law  
14 claims of negligence, negligent use of excessive force, intentional infliction of emotional  
15 distress, and assault and battery.

16 IT IS SO ORDERED

17  
18 Dated this 4th day of September, 2012.

19  
20 

21 Ronald B. Leighton  
22 United States District Judge  
23  
24